

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

MOISES GONZALEZ

§
§
§
§

V.

CASE NO. 5:17-cv-203

SENTINEL INSURANCE COMPANY, LTD
AND JOHN DOE

§
§
§

NOTICE OF REMOVAL

Defendant, Sentinel Insurance Company, Ltd. (“Sentinel”) through undersigned counsel and pursuant to 28 U.S.C §§ 1441 and 1446, files this Notice of Removal of the action captioned as follows: *Moises Gonzalez v. Sentinel Insurance Company, Ltd. And John Doe*, Cause No. 2017CVH002089D1; In the 49th Judicial District Court of Webb County, Texas. In support of this Notice of Removal, Sentinel respectfully represents the following:

1. Plaintiff, Moises Gonzalez (“Plaintiff”) commenced the state-court action against Sentinel and John Doe (“Doe”) on or about August 31, 2017, by filing Plaintiff’s Original Petition (the “Petition”) in the 49th Judicial District Court of Webb County, Texas. Sentinel was served with the summons and a copy of the complaint on September 18, 2017.

2. Sentinel has requested a copy of the state court file and docket sheet, but the file has not been received as of the time of this writing. Sentinel is attaching copies of all state court documents that are available at this time, and Sentinel will supplement this Notice of Removal with the complete state court file on receipt. A copy of all process, pleadings, and orders in the state-court action is filed with this Notice of Removal. The state court file documents available to Sentinel at this time are (1) Copy of the Register of Actions from the state court file; (2) Plaintiff’s Original Petition, Jury Demand, and Request for Disclosure; (3) citation and service

documents for Sentinel Insurance Company, Ltd.; (4) correspondence dated September 27, 2017 from Sentinel's attorneys requesting a certified copy of the entire state court file; and (5) a copy of the Notice of Removal to Federal Court which is being filed with the state court at the time of this removal.

3. The Petition avers that Plaintiff is a resident citizen of Webb County, Texas. (Pet. ¶ 1.)

4. The Petition alleges that Defendant Sentinel is an insurance company doing business in the State of Texas. (Pet. ¶ 1.) In fact, Sentinel is a corporation domiciled in the State of Connecticut and maintains its principal place of business in Hartford, Connecticut.

5. The Petition alleges that Plaintiff owns property located in Webb County, Texas (the "Property") that was insured by an insurance policy issued by Sentinel. (Pet. ¶ 2)

6. The Petition alleges that "[o]n or about May 21, 2017 a storm hit the Webb County, Texas area, causing "extensive damage to the Property including but not limited to damages to the roof, ceilings and fence." (Pet. ¶ 3)

7. The Petition further alleges that Plaintiff filed a claim on his insurance policy (Pet. ¶ 3) and that Sentinel assigned John Doe to adjust the claim.

8. The Petition further alleges Sentinel and Doe conducted a substandard investigation, failed to thoroughly investigate Plaintiff's losses and spent inadequate amount of time on the investigation. (Pet. ¶ 3)

9. Plaintiff alleges in the Petition that he is seeking "monetary relief of less than \$100,000." (Pet. ¶ 12) This amount satisfies the minimum jurisdictional requirements of this Court.

10. This Notice of Removal is filed within 30 days of service of the Petition and is therefore timely under 28 U.S.C. § 1446 (b).

11. Sentinel denies the underlying facts as alleged by Plaintiff or as summarized in this Notice. Sentinel expressly denies that it has any liability to Plaintiff.

DIVERSITY JURISDICTION

12. This Court has original jurisdiction pursuant to 28 U.S.C § 1332 (a), and this matter is therefore removable to this Court pursuant to 28 U.S.C. § 1441 (a), because there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs. Plaintiff is a citizen of Texas, Sentinel is a corporation domiciled in the State of Connecticut and maintains its principal place of business in Hartford, Connecticut.

13. The amount in controversy exceeds the jurisdictional minimum of \$75,000 set by 28 U.S.C. § 1332 (a). In the Petition, Plaintiff alleges that he seeks “monetary relief of less than \$100,000.” (Pet. ¶ 12) Plaintiff also seeks penalties, costs, expenses, pre-judgment interest, and attorneys’ fees. (Pet. ¶ 12) Attorneys’ fees and penalties may be included as part of the amount in controversy for jurisdictional purposes. *See H&D Tire & Automotive-Hardware, Inc. v. Pitney Bowes, Inc.*, 227 F.3d 326, 330 (5th Cir. 2000).

14. Plaintiffs in Texas are also not limited to recovery of damages requested in their pleadings. “[L]itigants who want to prevent removal must file a binding stipulation or affidavit with their complaints . . .” *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1412 (5th Cir. 1995) (quoting *In re Shell Oil Co.*, 970 F.2d 355, 356 (7th Cir. 1992). “The general principle is that Plaintiffs will have to show that they are bound irrevocably by their state pleadings.” *Id.* at 1412, n. 10.

15. No binding stipulation or affidavit was filed with the Petition.

REMOVAL PROCEDURE

16. Sentinel has provided the clerk of the 49th Judicial District Court of Webb County, Texas with notice of this removal.

17. Copies of the following documents are provided to the clerk of this Court for filing in connection with this Notice of Removal:

- a. Index of matters being filed;
- b. Copies of documents on file with the state court that are presently available to Sentinel;¹
- c. A list of all parties and their counsel of record; and
- d. Notice of Removal to State Court.

WHEREFORE, Sentinel Insurance Company, Ltd. hereby provides notice that this action is duly removed.

Respectfully submitted,

/s/ Martin R. Sadler

Martin R. Sadler
Texas Bar No. 00788842
msadler@lawla.com

LUGENBUHL, WHEATON, PECK, RANKIN & HUBBARD,
A LAW CORPORATION
801 Travis Street, Suite 1800
Houston, Texas 77002
Telephone: (713) 222-1990
Facsimile: (713) 222-1996

ATTORNEY-IN-CHARGE
FOR SENTINEL INSURANCE COMPANY, LTD.

¹ Sentinel will supplement this removal with a complete copy of the state court file, including the docket sheet, on receipt. The state court file was requested on September 27, 2017.

OF COUNSEL:

Rebecca A. Moore
Texas Bar No. 24031701
rmoores@lawla.com
LUGENBUHL, WHEATON, PECK, RANKIN & HUBBARD,
A LAW CORPORATION
801 Travis Street, Suite 1800
Houston, Texas 77002
Telephone: (713) 222-1990
Facsimile: (713) 222-1996

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above pleading has been forwarded by Electronic service on this the 9th day of October, 2017 to:

Matthew M. Zarghouni
Zar Law Firm
7322 Southwest Fwy, Suite 1965
Houston, Texas 77074

/s/ Martin R. Sadler

Martin R. Sadler